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DEPARTMENT OF JUSTICE

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REGISTRATION SECTION



ACT
Vol. - 780
Rev. Code 2-S-3

REGISTRATION No. 437

MEMORANDUM OF AGREEMENT made in duplicate this
day of 19 66

BETWEEN:

THE NATIONAL FILM BOARD

having its head office in the

City of Ottawa, Canada, herein

after called "the Board",

of the First Part,

and

BRANDON FILMS INC.

having its head office at

200 West 57th Street

NEW YORK, N.Y.

hereinafter called "the Distributor"

of the Second Part.

WHEREAS, by the provisions of the National Film Act, Chapter 105 of the Revised Statutes of Canada, 1952, the Board is authorized to enter into contracts or agreements for the distribution of films qualifying under the said Act;

AND WHEREAS, the Board and the Distributor mutually desire to enter into a contract for the distribution of films as hereinafter provided.

NOW, THEREFORE, this Agreement witnesseth as follows:

Definitions

1. (1) In this Agreement, unless the context otherwise requires,

(a) "actual laboratory cost", with respect to a print, or printing materials, means the cost of the print or printing materials as determined by the Superintendent of the Motion Picture Laboratory where the print or printing materials have been made;

(b) "the film" means each film specified in Schedule "A" to this Agreement and any other film furnished to the Distributor under this Agreement;

(c) "print" means a positive print for projection;

(d) "printing material" means material from which a print can be made;

(e) "the territory" means the United States of America, its territories and possessions;

(f) "list price" means the Distributor's catalogue or other published price for sale of individual prints without discounts or other allowances.

(2) Unless the context otherwise requires, all the terms of this Agreement apply in respect of each film specified in Schedule "A" and any other film furnished to the Distributor by the Board for distribution under this Agreement as if they were contained in a separate Agreement relating to that film.

Grant

2. (1)

The Board hereby grants to the Distributor the exclusive right, license and privilege to distribute the film non-theatrically by sale of 16mm prints thereof throughout the territory for a period of three (3) years from the date of the Schedule "A" referring to the film, but nothing in this Agreement shall be construed as conferring on the Distributor the right to distribute the film for television or theatrical use.

Extension

(2)

The period specified in sub-clause (1) (herein called the "original period") will automatically be extended for a further period of one (1) year from the last day of the original period, unless either party gives notice in writing to the other not later than sixty days prior to the last day of the original period that the original period will not be extended.

Rights retained

(3)

Any rights that are not expressly granted to the Distributor under this Agreement are retained by the Board.

Release period

3. (1)

If, at the expiry of one year after the first date of delivery of a print of the film to the Distributor under Clause 5, the Distributor has not released the film in the territory, the Board may give notice in writing to the Distributor of its intention to terminate the right of the Distributor to distribute the film in the territory and upon the

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3. (1) expiry of sixty days from the giving of the notice
cont'd.
If the Distributor has not released the film in the
territory, the right of the Distributor to distribute
the film in the territory shall terminate and the
Board may arrange for distribution of the film in the
territory as it sees fit.

(2) Sub-clause (2) of clause 11 shall apply
in respect of the termination of the rights of the
Distributor under this clause.

Royalty

4. (1) The Distributor will pay to the Board by
way of royalty an amount equal to Thirty Percent (30%)
of the list price of each print sold, and in
calculating the amount due to the Board the
Distributor shall in each case include as sales all
prints placed in its rental library.

(2) All amounts payable by the Distributor to
the Board under this Agreement shall be paid in
lawful United States dollars to the New York office
of the National Film Board at 690 Fifth Avenue,
Suite 819, New York, N.Y. 10010.

Reports

(3) The Distributor agrees that within thirty
(30) days after January 1st, April 1st, July 1st and
October 1st for the duration of this Agreement, it
will on or before the expiration of that thirty (30)
day period make to the Board a return properly recording
all prints sold during the period of three (3) calendar

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4. (3)
cont'd.

months immediately preceding that date and will pay to the Board all royalties payable under sub-clause (1) of this clause in respect of the prints sold during the period of three (3) calendar months.

Accounts
and Records

(4)

The Distributor will maintain proper books of account and records relating to the sale of the film, including the money received and spent by the Distributor in connection therewith, and will permit the Board or its representative at all reasonable times to inspect the books and records and take extracts therefrom.

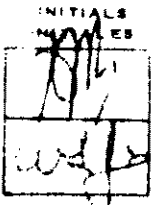
Printing
Materials

5. (1)

The Board will furnish to the Distributor at actual laboratory cost, plus transportation charges,

- (a) such printing materials as are available and necessary to secure high quality release prints of the film, which materials the Distributor agrees to keep in a laboratory satisfactory to both of the parties hereto until they are returned to the Board, or destroyed;
- (b) such number of prints of the film satisfactory to the Distributor for distribution in the territory, as may be agreed upon from time to time between the parties hereto;

the cost of such prints and printing materials to be paid by the Distributor within thirty (30) days of delivery.



Property
of the Board

5. (2)

All printing materials delivered to the Distributor under this Agreement shall be the property of the Board.

Revision

6.

Any revision of the film for distribution in the territory will be made in the laboratories and at the sole expense of the Distributor and will be undertaken only with the prior approval of the Board; and the Distributor will not distribute any revised version of the film unless and until it has been approved in writing by the Board.

Title

7.

The Distributor may add its own presentation titles to the film, provided it ensures that the words "PRODUCED BY THE NATIONAL FILM BOARD OF CANADA" appear in and form part of the presentation titles and are given equal prominence therein with the name of the Distributor. The Distributor will not change the main or end titles of the film, except with the prior written approval of the Board.

Advertising

8. (1)

The Distributor may publicize the film in the territory and will ensure that due credit is given to the NATIONAL FILM BOARD OF CANADA in all

8. (1) announcements, articles, advertisements, still
cont'd. picture captions, catalogue listings and in any
other medium of publicity arranged for by the
Distributor in connection with the distribution
of the film.

(2) The cost of publicizing the film in the
territory will be borne by the Distributor.

Withdrawal

9.

Notwithstanding anything in this Agreement

(1) the Board may, at any time, by notice in writing to
the Distributor, withdraw the film from distribution
by the Distributor if, in the opinion of the Board,
it is contrary to public interest to continue dis-
tribution thereof in the territory, in which case
the Board shall reimburse the Distributor for such
loss as, in the opinion of the Board, the Distribu-
tor has, by such withdrawal, sustained; and

Prohibitions

(2) the Distributor will not
(a) distribute the film to any person for use
elsewhere than in the territory, nor
(b) assign any or all of its rights under this
Agreement.

Defaults

10.

If the Distributor violates or defaults in the performance of any undertaking or obligation under this Agreement, the Board may, by notice in writing specify clearly to the Distributor the nature of the violation or default and, if before the expiry of thirty days after the giving of the notice, the Distributor does not, to the satisfaction of the Board, rectify the violation or default and give assurance of its intention to comply with this Agreement, the Board may, by notice in writing, terminate the rights of the Distributor under this Agreement with effect from such date as the Board specifies in the notice.

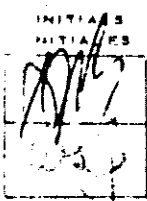
Termination

11.

(1)

The rights of the Distributor and of any other person or corporation in respect of the film shall terminate

- (a) upon the expiry of the period specified in Clause 2 or any extension thereof;
- (b) on the day on which the Board mails a notice under Clause 10 terminating the rights of the Distributor;
- (c) on the day on which the Board withdraws the film from distribution in accordance with Clause 9 (1);

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11. (1) (d) upon the Distributor assigning its rights under this Agreement, or becoming a bankrupt or insolvent;

whichever first occurs, and thereupon the Distributor will make no further distribution of the film.

- (2) Upon termination of the rights of the Distributor under this Agreement, the Distributor will, forthwith upon receiving notice in writing from the Board,

(a) destroy such of the prints and printing materials of the film, and

(b) deliver such of the prints and printing materials of the film to the Board (shipping and insurance charges to be borne by the Board),

as the Board may in its discretion specify on the notice.

Warranty

12. (1) The Board warrants that it has full rights to enter into this Agreement and further represents and warrants that the film distributed by the Distributor hereunder shall contain no material defamatory, libellous, or otherwise unlawful, and that the film shall in nowise infringe in whole or in part any proprietary right, copyright, right of privacy or any other right of any person whomsoever.



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12. (2) If proceedings are commenced in any court against the Distributor in respect of any matter that forms the basis of or may give rise to a claim for alleged breach of any warranty in this Agreement, the Distributor will forthwith give notice in writing thereof to the Board and will afford every opportunity and assistance to the Board to enable it to take part in or conduct the defence of the proceedings; but the Board shall not be required to take part in or to defend any such proceedings.

(3) The Board shall not be liable to the Distributor in respect of any claim that is the subject of proceedings mentioned in this clause or in respect of any matter arising out of such proceedings if the Distributor has not given the Board notice thereof as required by this section.

Indemnity

13. (1) The Distributor will defend, indemnify and save harmless the Board against and from all claims, costs, charges, damages and expenses arising out of any act or omission of the Distributor, or officers or servants of the Distributor, not expressly authorized in writing by the Board.

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13. (2)

The Board will indemnify the Distributor against all claims, costs, charges, damages and expenses arising out of any breach or violation of any of the covenants, warranties or representations made by the Board herein.

Waivers

14.

Any waiver by the Board or the Distributor of any breach of this Agreement by the other, whether such waiver be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement by the other.

Notices

15. (1)

Notice to be given under this Agreement shall be given by mailing the notice by prepaid registered mail, addressed, in the case of notice to the Board, to the National Film Board of Canada, P. O. Box 6100, Montreal 3, Que., Canada, and, in the case of notice to the Distributor, to the Distributor at its address hereinbefore mentioned or at such other address as either party, respectively, in writing, designates for the purpose of giving notice to it.

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Delivery

15. (2)

Where anything is to be delivered under this Agreement to a party, it shall, unless otherwise agreed between the parties, be delivered to the party entitled to receive it at the address to which notices to that party may be sent under this clause.

Law applicable

16.

This Agreement shall be interpreted according to the laws of the province of Ontario, Canada.

Signing on behalf of the Board

17.

This Agreement is not valid unless signed on behalf of the Board by the Government Film Commissioner or his official delegated signing officer at the Board's main office in Montreal.

IN WITNESS WHEREOF the Government Film Commissioner, on behalf of the Board, has hereunto set his hand and the Distributor has affixed its corporate seal attested by the proper officers in that behalf.

WITNESS:

[Signature]

NATIONAL FILM BOARD

[Signature]
Government Film Commissioner

WITNESS:

[Signature]

BRANDON FILMS, INC.

[Signature]
President



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SCHEDULE "A"

DATE 3rd December 1965

Attached to and forming part of the Agreement
between the NATIONAL FILM BOARD and BRANDON FILMS, INC.,
dated 3rd December 1965 this Schedule "A"
applies to the following films:

STRAVINSKY

NATIONAL FILM BOARD

W. R. [Signature]
Government Film Commissioner

BRANDON FILMS, INC.

Therese Johnson



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